

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

THE HAWTHORNE CONDOMINIUM
ASSOCIATION, a Washington Non-Profit
Corporation,

Plaintiff,

v.

QBE SPECIALTY INSURANCE COMPANY, a
North Dakota Company; EMPIRE INDEMNITY
INSURANCE COMPANY, an Oklahoma
Company; GENERAL SECURITY INDEMNITY
COMPANY OF ARIZONA, an Arizona
Company; and DOE INSURANCE COMPANIES
1-10,

Defendants.

NO.

**COMPLAINT FOR DECLARATORY
RELIEF AND MONETARY DAMAGES**

JURY DEMAND

Plaintiff The Hawthorne Condominium Association (the "Association") alleges as follows:

I. INTRODUCTION

1.1 This is an action for declaratory judgment and monetary damages, seeking:

(A) A declaration of the rights, duties and liabilities of the parties with respect to certain controverted issues under insurance policies issued to the Association, respectively, by QBE Specialty Insurance Company, Empire Indemnity Insurance Company, and General Security Indemnity Company of Arizona. The Association is seeking a ruling that the QBE Specialty Insurance Company, Empire Indemnity Insurance Company, and General Security Indemnity Company of Arizona policies provide coverage for the damage at the Hawthorne Condominium

and that the above listed insurers are liable for money damages for the cost of investigating and repairing the damage at the Hawthorne Condominium.

(B) Attorneys' fees (including expert witness fees) and costs.

(C) Any other relief the Court deems just and equitable.

II. PARTIES AND INSURANCE CONTRACTS

2.1 The Association. The Hawthorne Condominium Association is a nonprofit corporation organized under the laws of the state of Washington with its principal place of business located in Woodinville, Washington. The Association has the duty to maintain the common elements and any limited common elements of the Hawthorne Condominium for the common enjoyment of the unit owners. The Hawthorne Condominium consists of forty buildings with one hundred-forty (140) residential units located at 15400 132nd Avenue, Woodinville, Washington (the "Hawthorne Property").

2.2 QBE Specialty. QBE Specialty Insurance Company ("QBE") is a North Dakota domiciled insurer with its principle place of business in Sun Prairie, Wisconsin. QBE Specialty sold property insurance policies to the Association between 2013 and September 1, 2021. The Association is seeking coverage under all insurance policies QBE issued to The Hawthorne Condominium Association or covering the Hawthorne Condominium prior to September 1, 2021.

2.3 Empire. Empire Indemnity Insurance Company ("Empire") is an Oklahoma domiciled insurer with its principle place of business in Schaumburg, Illinois. Empire sold property insurance policies to the Association between 2013 and September 1, 2021. The Association is seeking coverage under all insurance policies Empire issued to The Hawthorne Condominium Association or covering the Hawthorne Condominium prior to September 1, 2021.

2.4 General Security. General Security Indemnity Company of Arizona ("General Security") is an Arizona domiciled insurer with its principle place of business in New York, New York. General Security sold property insurance policies to the Association between 2013 and September 1, 2021. The Association is seeking coverage under all insurance policies General Security issued

1 to The Hawthorne Condominium Association or covering the Hawthorne Condominium prior to
2 September 1, 2021.

3 2.5 Doe Insurance Companies 1-10. Doe Insurance Companies 1-10 are currently unidentified
4 entities who, on information and belief, sold insurance policies to the Association that identify the
5 Hawthorne Condominium as covered property.

6 2.6 Hawthorne Insurers. QBE, Empire, General Security and Doe Insurance Companies 1-10
7 shall be collectively referred to as the “Hawthorne Insurers”

8 2.7 Hawthorne Policies. The policies issued to the Association by the Hawthorne Insurers shall
9 be collectively referred to as the “Hawthorne Policies.”

10 **III. JURISDICTION AND VENUE**

11 3.1 This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1332
12 (diversity jurisdiction) as the parties are completely diverse in citizenship and the amount in
13 controversy exceeds \$75,000.

14 3.2 Venue is proper in this district pursuant to 28 U.S.C. § 1391(b)(2) as the Hawthorne
15 Insurers marketed and sold insurance to the Association in King County; a substantial part of the
16 events giving rise to the claim, including the breach of contract, occurred in King County; and the
17 insured condominium building is located in King County.

18 **IV. FACTS**

19 4.1 Incorporation by Reference. The Association re-alleges the allegations of paragraphs 1.1
20 through 3.2, above, as if fully set forth herein.

21 4.2 Tender to Hawthorne Insurers. On June 30, 2022, the Association tendered claims for
22 insurance coverage to the Hawthorne insurers for hidden damage recently discovered by Evolution
23 Architects. The Association understands from Evolution Architecture that the cost to repair the
24 covered hidden water damage at the Hawthorne Condominium is substantially over the
25 jurisdictional limit of \$75,000.
26

1 **V. FIRST CLAIM AGAINST HAWTHORNE INSURERS FOR**
2 **DECLARATORY RELIEF THAT THE HAWTHORNE POLICIES PROVIDE**
3 **COVERAGE**

4 5.1 Incorporation by Reference. The Association re-alleges and incorporates by reference the
5 allegations of paragraphs 1.1 through 4.2, above, as if fully set forth herein.

6 5.2 Declaratory Relief. The Association seeks declaratory relief from the Court in the form of
7 determinations regarding the following disputed issues:

8 (A) The Hawthorne Policies cover the damage to weather-resistive barrier, exterior
9 sheathing, and framing at the Hawthorne Condominium.

10 (B) No exclusions, conditions, or limitations bar coverage under the Hawthorne
11 Policies.

12 (C) The loss or damage to the Hawthorne Condominium was incremental and
13 progressive. New damage commenced during each year of the Hawthorne Policies.

14 (D) As a result, the Hawthorne policies cover the cost of investigating and repairing
15 the weather-resistive barrier, exterior sheathing, and framing at the Hawthorne Condominium.

16 **VI. PRAYER FOR RELIEF**

17 WHEREFORE, the Association prays for judgment as follows:

18 6.1 Declaratory Judgment Regarding Coverage. A declaratory judgment that the Hawthorne
19 Policies provide coverage as described herein and that the Hawthorne insurers are obligated to pay
20 money damages to repair the hidden damage at the Hawthorne condominium complex.

21 6.2 Money Damages. For money damages in an amount to be proven at trial.

22 6.3 Attorneys' Fees and Costs of Suit. For reasonable attorneys' fees (including expert fees)
23 and costs. *See Olympic Steamship Co. v. Centennial Ins. Co.*, 117 Wn.2d 37, 811 P.2d 673 (1991),
24 and RCW 48.30.015.

25 6.4 Other Relief. For such other and further relief as the Court deems just and equitable.

26 **VII. DEMAND FOR JURY TRIAL**

7.1 Pursuant to Rule 38 of the Federal Rules of Civil Procedure, the Association demands trial
by jury in this action of all issues so triable.

1 DATED this 30th day of June, 2022.

2 **STEIN, SUDWEEKS & STEIN, PLLC**

3 /s/ Jerry H. Stein

4 /s/ Justin D. Sudweeks

5 /s/ Daniel Stein

6 /s/ Cortney Feniello

7 Jerry H. Stein, WSBA 27721

8 Justin D. Sudweeks, WSBA 28755

9 Daniel J. Stein, WSBA 48739

10 Cortney M. Feniello, WSBA 57352

11 16400 Southcenter Pkwy, Suite 410

12 Tukwila, WA 98188

13 Email: jerry@condodeflects.com

14 justin@condodeflects.com

15 dstein@condodeflects.com

16 cfeniello@condodeflects.com

17 Telephone: (206) 388-0660

18 Facsimile: (206) 286-2660

19 ***Attorneys for Plaintiff***